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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,537

02/24/2006

Herwig Miessbacher

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9141

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EXAMINER

BIDWELL, JAMES R

ART UNIT

PAPER NUMBER

3651

NOTIFICATION DATE

DELIVERY MODE

12/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/559,537	Applicant(s) MIESSBACHER, HERWIG	
	Examiner James R. Bidwell	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52-127 is/are pending in the application.
- 4a) Of the above claim(s) 74-80,87-91 and 115-126 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-62,64-69,71,73,81,83-86,92,94,95,106,107,114 and 127 is/are rejected.
- 7) ☒ Claim(s) 63,70,72,82,93,96-105 and 108-113 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/22/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election with traverse of Group I in the reply filed on 10/10/2008 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the Examiner to examine the separate inventions. This is not found persuasive because there are two totally different inventive concepts drawn to increasing friction as well as decreasing friction. Both a classified search as well as a word search involve totally different search strategies. Since claims 116-125 in fact depend from non-elected group II they are hereby withdrawn. As noted by Applicant claims 87-91 are drawn to features of the non-elected invention and thus they are withdrawn as well.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Mendelsohn et al. (U.S. Patent 4,134,883).

Mendelsohn et al. show in Figure 2 a drive element 8 for a handrail 4, a drive motor 13 connected to the drive element and a material pairing between the drive element and handrail which anticipates the claimed 0.95 friction coefficient. See Column 6.

Re claim 53, shown is a drive wheel 9.

Re claim 54, the wheel is disclosed as being metal and a tire 22 is shown.

Re claim 55, wheel 22 is a friction body arranged on a hub.

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Re claim 56, the disclosed material is expandable.

Re claims 60 and 61, the contact surface of the driving element 8 is of a fiber structure.

Re claim 62, see column 3, lines 60-65.

Re claim 64, see Figure 2 for the claimed approximate width.

Re claim 65, shown is a flat contact area between the handrail and drive element.

Re claim 67, the drive element contacts a lower are of the handrail.

Re claim 68, lateral areas are covered as is broadly claimed.

Re claim 69, see Figure 1 for a plurality of drives laterally arranged.

Re claim 71, there is positive interaction.

Re claim 73, see Figure 2 for the claimed profile.

Re claim 81, the claimed coefficient of friction is fairly taught by Mendelsohn et al.

Re claims 83-86, see Figure 2.

Re claim 92, different surfaces would inherently have different roughness.

Re claim 94, the handrail has a slide surface.

Re claim 95, shown is a u-shaped recess.

Re claims 106 and 107, shown are reinforcing elements in the handrail.

Re claim 114, elastomeric materials are disclosed.

Re claim 127, drive motor 13 is actively connected to the drive element and the claimed material pairing is taught.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 57-59 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelsohn et al. in view of Illedits et al (U.S. Patent 6,971,497).

Mendelsohn et al. do not disclose the use of an inflatable tire. However, shown by Illedits et al. is such an inflatable tire 4.1. To use such on Mendelsohn et al. would have been obvious to one of ordinary skill in the art as the inflation feature would allow for adjusting the friction force between the tire and handrail.

Claims 63, 70, 72, 82, 93, 96-105 and 108-113 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Bidwell whose telephone number is (571)272-6910.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford, can be reached on 571-272-6911. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James R Bidwell/

Primary Examiner, Art Unit 3651

12/02/2008